

REMARKS

In the Office Action, the Examiner required restriction to one of the following three groups of claims:

- Group I - Claims 77-164, drawn to a cosmetic composition;
- Group II - Claim 165-173, drawn to a multi-compartment kit; and
- Group III - Claim 174, drawn to a cosmetic process.

Office Action at page 2.

While Applicants disagree with the restriction requirement, Applicants provisionally elect with traverse, to prosecute Group I, claims 77-164, drawn to a cosmetic composition. The Examiner contends that "Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature among the inventions is the cosmetic composition, which is anticipated by Andon *et al.* (U.S. Patent No. 6,153,206; Issued Nov. 28, 2000; #35 on the IDS submitted by applicant dated 7/19/2006)." *Id.*

Applicants respectfully disagree with the Office's analysis of Andon *et al.* and the conclusion that the Andon's cosmetic composition anticipates the present invention. Applicant reserves any further response until the issuance of an official action directed towards Andon and the elected subject matter.

Applicants assert that the special technical feature of the present invention does not equate to the cosmetic composition recited in Andon (i.e., an uncrosslinked synthetic polymer comprising a first repeat unit consisting of methacrylate ester monomers and a second repeat unit consisting of methacrylate ester monomers).

Applicants submit that the Examiner's assertion that the present invention lacks an inventive step over Andon is in error. Accordingly, Applicants submit that the Examiner's restriction requirement is improper and should be withdrawn.

The Examiner also requires election of species for Group I, as presented at pages 3-6 of the Office Action. Specifically, the Examiner asserts that the species "lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1." *Id.* at page 3. Therefore, the Examiner further requires election of a single species of disclosed:

(1) monomer structure (claims 110, 111, 113, 114, 117, 121, 122, 127-129, 135, 140, 141, 146, 147, 155 and 156);

(2) additional monomer (claims 151-154); and

(3) cosmetic composition form (claims 159 and 160) for prosecution on the merits.

See id. at 3.

The election of species requirement is respectfully traversed. However, to be fully responsive, Applicants provisionally elect, with traverse:

(1) isobornyl (meth)acrylate and isobutyl acrylate as monomers;¹

(2) acrylic acid as additional monomer; and

¹ The Examiner requires election of a single species of monomer structure. However, as cited in the Application, the cosmetic composition comprises at least one film-forming ethylenic block polymer, which is defined in the Specification at paragraph [0058] of the as-published application, as "a polymer comprising at least two different blocks" Thus, Applicants assert that at least two different monomers must be elected for prosecution on the merits.

(3) a paste form.

Applicants submit that claims 77-109, 11-120, 122-139, 141-154 and 156-164 read on the elected species.

In addition, as with the restriction requirement discussed above, the Examiner merely asserted that "these species are deemed to lack unity of invention because they are not so linked to form a single general inventive concept under PCT Rule 13.1." *Id.* at page 3. Accordingly, for the reasons above, Applicants submit that the Examiner's election requirement is improper and should be withdrawn.

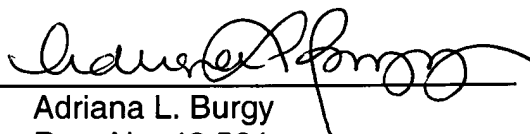
Applicants respectfully request that the full scope of the claimed invention continue to be examined in this application without the restriction or election requirement. If the Examiner chooses to maintain the election requirement, Applicants respectfully request the Examiner, if the elected species is found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, that is, extending the search to a reasonable number of the non-elected species according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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